HEARING HELD APRIL 4, 1979

COURT'S FINDINGS AND RULING

THE COURT: Let me say this before I begin that I really appreciate the work that everybody has done in this case. I think I read every case that was presented before me in the memorandums. I certainly read at least 95 percent of them - I'm almost positive I read every case in the memorandums. The work in this case was excellent and the presentation of evidence was excellent on all parties. In no way does anybody--one side will lose and one side will win. It is not the attorneys' fault; it is the way that I see the facts of this case to fall but I am very much impressed with what both sides did and am very thankful for the aid that they gave me because it was very helpful. It did take me a couple of days to read through all these.

I'm going to terminate the child, Noel Barefoot, the mother's rights, Cheryl Maffey's rights basically under two theories: Obviously under 419.523. Subsection 2 was the issue. I am finding that the parent or parents are unfit by reason of conduct or conditions - in this case it is just the parent - the condition is seriously detrimental to the child and integration of the child into the home of the parent is improbable in the foreseeable future due to conduct or conditions not

likely to change. Basically it comes under (A) the emotional illness and (E) lack of effort on the parent to adjust to the circumstances.

I have prepared some findings here that I want to put on the record because I recognize this is probably not the court of last resort in this case and so everybody knows exactly where I stand and I will entertain any - not argument - but anything that either Counsel at the end or if they want to come back in a day or two and clarify in further detail - if they want me to make further findings on either point, I will entertain it from either side.

The child, Noel Barefoot Wright, has no early bonding nor has he any emotional or psychological attachment with his biological mother, Cheryl Maffey. He believes that his mother is Chris Taylor, a former foster mother. During this first five years of life he spent only 16 months with Cheryl Maffey. At the time of this decision, he has not seen his biological mother for one year. This is not the fault of the biological mother, because CSD refused visitation after she told the child in March of 1978 that she was finding a permanent parent for him. Most of Mrs. Maffey's contact with the child was prior to his being two years of age. From November 10, 1975, just prior to his being two years

of age until March 6, 1978, when the child was nearly four years and three months old, Mrs. Maffey only had custody of him for approximately seven months. He has been shifted from positions between foster homes, relatives, and his parents. Because of the instability in his first five years, he is aggressive, destructive, and unable to handle emotional stress. He represses his emotions, for instance. He lacks an inter-emotional life and he has no fantasies and has an extremely high anxiety level. He is a child with a high IQ who was inhibited because of his predominant fear and the threat to his security caused by the instability and lack of attachment with either biological or psychological parents.

This child is in desperate need of real, actual family stability. It must be immediate and it must be forever. The only stability that the child has at this time is his older sister, Tonya, who has been voluntarily terminated and lives with Mr. LaMarche - Mr. and Mrs. LaMarche, with whom Noel Barefoot Wright also lives. Noel Barefoot looks to his older sister as a parent. It is, without a doubt, to the best interest of the child, Noel Barefoot Wright, that the parental rights of Cheryl Maffey be terminated.

Cheryl Maffey is a 30-year-old lady who, from the

age of approximately 15, until March of 1978, has had a series of mental commitments. She has an alcoholic problem, has a history of attempted suicide, and has been assaultive. She has lived in many communities, in many homes, with many persons. Mrs. Maffey has attempted, and desires to be a loving mother, and has had good and extensive assistance from CSD and similar organizations. But with the most extensive assistance from CSD, she has been unable to conform her conduct to have a viable relationship with her son, Noel Barefoot Wright.

Since March, 1978, Mrs. Maffey has been totally involved with Portland's Urban Indian program, where she is both employed and a patient. Dr. Ball, a psychiatrist, has placed her on medication which has helped her. She is presently caring for her younger son, Sunny, and is employed teaching crafts at the program. However, during this time she has been unable to hold a maid's job at the Benson Hotel, and drapery factory. She has had three roommates, one was a male with an apparent alcoholic problem. She is totally dependent upon the Urban Indian program to take care of her financial and emotional needs. Cheryl Maffey, from the testimony of her adoptive mother, Mrs. Chiloquin, and from Mr. Larry Lawson, has been unable to give the same love and affection to Noel Barefoot Wright that she has given to her younger son,

Sunny. She herself has admitted she had much more difficulty disciplining and parenting Noel Barefoot Wright than she did with Sunny.

Dr. Ball, the treating physician, who is with the Indian Urban program and who is also from the Klamath Indian Tribe, testified that Cheryl Maffey was not schizophrenic but had a borderline personality. Dr. Ball described a person with a borderline personality as being childlike, lacks a sense of individuality, lacks the ability to relate to people, and lacks self-confidence. It is Dr. Ball's opinion that she could take care of the child, Noel Barefoot Wright. I'm in agreement that she could physically care for the child, but in disagreement that she could give the child the emotional and intellectual care that he absolutely needs at this point in his life. I have given Dr. Ball's testimony greater weight because he is the treating physician, but this is tempered by the fact that I have never seen a treating psychiatrist testify adversely to his client's interest. It would obviously destroy the doctor-patient relationship. Secondly, I found Dr. Ball to be an advocate for Cheryl and not totally objective and finally, Dr. Ball did not see the child, Noel Barefoot Wright. Dr. McCook was of the opinion that she is schizophrenic and Dr. Scheen, a psychologist, was unable to say if she

is schizophrenic or borderline.

In my opinion, there is a continuum from neurotic to psychotic with borderline personality in the middle, and Mrs. Maffey falls into the borderline to psychotic classification. I find the distinction between borderline and schizophrenic makes no difference in the outcome of the case. What is important is that she has a condition that prevents her from being capable of giving the minimum emotional and intellectual support that the child, Noel Barefoot Wright, must have to develop into a secure, normal human being.

Even under the close supervision of Dr. Ball and the Portland Urban Indian program, she is at best just maintaining herself and one child with whom she has a totally different relationship. It takes all her intellect, constant medication, and total support to maintain herself and her son. The greater weight of evidence is that she will leave the support group in Portland as she has in the past for another home in another town.

This is not the deciding issue in this case, but the deciding issue is that she will be unable, because of her mental condition, to give Noel Barefoot Wright the emotional and intellectual help he needs, and unfortunately for Mrs. Maffey she will never have the

ability to give this support.

Now, I am going to talk about the various persons that have testified and how I weighed their testimony, and as I say, if anybody wishes me to make any further comments as to any other testimony I will be very happy to do so. One thing I have to say before I begin, I'm not going to talk too much about many of the persons from CSD. I will only be talking about Larry Lawson and Prommeyer but I have never seen more extensive help given to an individual than I did in this particular case. Mrs. Maffey had extensive help from CSD and other agencies but most extensively from CSD. The persons that testified from CSD, I thought, were quite competent, and quite good, and I really can't see what CSD could have done anymore than they did in this particular case in trying to work with Mrs. Maffey to reintegrate Mrs. Maffey with her children. Granted, there was often conflict that will arise between persons in the situations of Mrs. Maffey and CSD which could only be expected, but in no way can I find any fault on the part of the Children's Services Division and their particular handling of this particular case in trying to integrate the children back into the home over this four or five-year period. I can go on record and say I'm not always that kind to CSD.

Let me talk about some of the important persons that I think testified: One was Mrs. Leatha Chiloquin who adopted Cheryl Maffey shortly after her birth in September of 1948. Mrs. Chiloquin testified in favor of termination, and it is frankly, apparent that there is a great conflict between Cheryl and her adopted mother, but it must be remembered that Mrs. Chiloquin was the person most familiar with Cheryl's childhood, and with Cheryl's life. Mrs. Chiloquin is an intelligent lady and an ardent supporter of Indian rights. Cheryl had the benefit of not only her mother but of other members of the Klamath Tribe in August and September of 1977.

Mrs. Chiloquin described a different reaction between Cheryl and Bare, and Cheryl and Sunny, stating that Cheryl had much stronger feelings towards Sunny's father and that she had extreme affection for Sunny. Mrs. Chiloquin also described that Bare looked towards Tonya, his older sister, like a mother. In Mrs. Chiloquin's opinion, Bare needed more love and affection than Cheryl could offer him. She also described the spending of the money, being the allotment of about $7,500 that Cheryl was unable to manage.

Mrs. LaMarche is an important figure in this case. Mrs. LaMarche's husband is an Iriquois Indian and

together they have been foster parents to numerous Indian children in Klamath County. She appears to be an able person and very concerned about the children in her care. She has known Cheryl for many years and has been involved with Cheryl and her children for nearly eight years. I find her testimony totally credible, and she's the one that testified that Noel Barefoot Wright was very destructive, wetted his bed, had nightmares when she began caring for him. She's also the one that says that Noel Barefoot Wright does not know that Cheryl is his real mother and believes his real mother is Chris Taylor, a foster parent in Eugene. She is also the one that testified that Bare is dependent on Tonya and the one who said that when Bare and Cheryl parted ways in March of 1978 that there was no reaction by Bare. He did not realize that Cheryl Maffey had any real connection with him. In making this decision I have taken into account that in her testimony she did not - she stated that she didn't think that her family could take Bare in as a permanent child. Obviously, for Bare's interest being of his close attachment to his sister, that would be the best place to place him, but I--we didn't go into that testimony and I accept the fact that she and her husband have given so much that she can just not take that next child down the line and I'm not anticipating

that Bare would be adopted into that home.

Lynn Fronmeyer - I was extremely impressed with her. She is an extremely competent individual, involved with permanent planning with Cheryl. She worked extensively with her in July of 1976, at which time Cheryl immediately left Eugene after the initial contact. Mrs. Fronmeyer finds that Bare, who was with the Taylor family in November, 1975, to June, 1977, was a psychological family, and at that time, in June, 1977, he had a positive reaction to Cheryl but Mrs. Taylor was the psychological mother. She also described Cheryl in the June 4th meeting, 1977, as projecting her problems on others. And I frankly have a lot of respect for Mrs. Fronmeyer in that she thinks the best interest of the child would be for termination to take place.

Larry Lawson is a caseworker who has been before the Court many many times and I have great respect for Mr. Lawson. I find him very competent, very honest in his relationship between the client and what he reports to the Court. I find that his testimony is important in about four or five areas in this case: One, being the role reversal between parent and child where Cheryl is often childlike and both Noel and Tonya would often be in the role of parent with Cheryl, and that Cheryl needed the children for her emotional security and was unable to

nurture the children. Mr. Lawson, secondly, saw rejection of the child, Noel Barefoot Wright, by Cheryl and how she was unable to give - how she was able to give love and affection to Sunny, but not to Noel Barefoot Wright, and that she could discipline Sunny but was unable to effectively discipline Noel Barefoot Wright. He also described in 1978 how Tonya was the mother figure to Bare. Mr. Lawson was also able to describe the support that Cheryl received in August, 1977, in what was referred to as the Village in Chiloquin, Oregon. The Village is run by her adoptive mother's present husband. It is a meeting place of Cheryl's family and other members of the Klamath Indian community, giving Cheryl support. He also described how after she was no longer the center of attention she no longer remained with the group. Mr. Lawson has also been able to describe that Bare had made significant progress since he's been with the LaMarches; that he's not wetting his bed, not having the nightmares, not having the problems that he had previous to that. He also gave his opinion - I accepted - that Cheryl cannot stand the pressure of raising Bare. Laura Brant is not so important as she is interesting from the facts that she worked with Cheryl in 1969. She provided her with housekeeping and mothering duties. She described Cheryl at that time as having wide swings of personality. She

happened to see her again in 1978 when she was hospitalized in PIH and found her to be substantially the same person she had seen in 1969.

Mrs. Clark, who testified in favor of Cheryl, I found her to be an impressive witness. She described Cheryl's house as being a clean house. She described Sunny as being a very warm and loving little boy.

Miss Peterson is a social worker with the Indian group in Portland. Cheryl - and I found her to be very impressive - Cheryl - she described Cheryl's roommate problems. She stated that she believes Cheryl suffered from delayed adolescence, a problem of identity with minority people. I find that the theory - I don't have any problems accepting the theory that takes place, I just do not believe that that is Cheryl's particular problem. She also learned about the problem that Cheryl had at the drapery factory in April, she also learned about Cheryl hearing voices in May of '78, how she became depressed in June of 1978 by not taking medication, how in July of 1978 she could not cope with Leonard and his drinking problem, and she continued to have problems with Leonard in August of 1978; and up until the time of the hearing she was worried about how to manage her own affairs.

Cecilia Fisher, who was with Cheryl throughout the

entire case hearing of this particular case, I frankly was not impressed with her and really did not take into account any of her testimony.

Dr. McCook who is a psychiatrist, who is first, not Board certified, but I was frankly impressed with his abilities. He found her to be schizophrenic and found her predominately deficient in her social relations so that she had no emotionality; had a flattened affect. As I say, I don't believe that she's really a chronic schizophrenic as he testified, but I did find him impressive in his testimony. He found that Noel Barefoot Wright was healthy, no evidence of thought disorder or mental illness. He did say that because of the many placements through foster homes, he had mild to moderate phobias and less capacity to rechannel stress than other children. Predominant in his personality was fear and threat to his security. I find this concrete from the testimony of Dr. McCook and Dr. Scheen. He stated that Noel Barefoot Wright had a high IQ which was not being exercised because of the instability. He stated that if the pattern continues it will have a detrimental effect on the child. He also was the one that found that Noel Barefoot Wright had much greater psychological attachment to his sister, Tonya, than to Cheryl and in effect had no showing of any natural affection or bonding attachment to

Cheryl. He stated that the child needed stability and consistency.

I think I have discussed Dr. Ball, he is Board certified which should be noted and I gave him greater weight because of the fact that he's the treating physician. He found that she was motivated and has the intent to change and feels that she could be an adequate parent. I don't disagree that she could possibly be an adequate parent to Sunny, but I do not agree that she could be an adequate parent to Noel Barefoot.

Dr. Scheen, from the Minnesota test and the Rorschack test, finds the child, excuse me, from the Rorschack test, finds that the child had emotional pressure and should not have additional pressures, and I agree with that entirely. He found that the child was intellectually high but tests low. Also he found that the child had not emotional life which prevents him from acting out. He had a high anxiety level. He definitely believed the child's best interest would be served with a secure home setting. He needs the same home, same bed, same friends, strong parental guidance which I just don't believe that Cheryl can give to this child.

Anything else at this particular time?

I will be very happy to address any further

questions that anybody has to the way I weighed evidence or anything like that; obviously with everybody present and on the record.

MR. PERKINS: Your Honor, we did raise the issue of the standard which should be used in making the decision, the preponderance of the evidence versus the beyond a reasonable doubt. I would appreciate if the Could would state which standard he used and whether he would find this to be the same rule under the more stringent standard.

THE COURT: I find beyond a reasonable doubt that the child's best interests are for termination. I could not find - I find by a preponderance of the evidence that Cheryl will be unable to change or adjust her home life, but I can't say beyond a reasonable doubt to that aspect in the future, but without a doubt, in my mind, the child's best interest is termination; that he has no bonding, no psychological ties; he's in desperate need of security - that is beyond a reasonable doubt. But, the aspect as to Cheryl is by a preponderance of the evidence. It is not beyond a reasonable doubt that she, but by a preponderance of the evidence, I believe that she will not be able to adjust her life or change, but I cannot say that beyond a reasonable doubt.

I do believe I can state by clear and convincing,

but not beyond a reasonable doubt.

I'm sorry, I didn't bring that up because I frankly worked with that very hard.

I do not think that the Indian Statute applies at this time. I put that on the record and the one that you raised which is theoretically goes into effect in May of this year.

Anything else at this time? I will be very happy to discuss any of it because I have gone through it all and there is a high probability - we all know there is a very high probability this will go on appeal and what they need is a record, so I will be very happy.

MR. MOLATORE: We have nothing further.

MR. UERLINGS: Nothing.

THE COURT: Between the two of you, figure out who's going to draw the order.

Gentlemen, this is an interesting case, I enjoyed working with you very sincerely and you all did a great job, both sides.

Thank you very much.

CONCLUSION OF CASE.

/ / /

IN THE COURT OF APPEALS OF THE STATE OF OREGON

Case Name:

In the Matter of Noel Barefoot Wright, a child.

State of Oregon ex rel Juvenile Department of Klamath County (Respondent)

v.

Cheryl Maffey (Appellant)

14550 (CA No.) 102-78 (Circuit Court No.) (District Court No.)

County Klamath Judge Ted Abram

(Agency No.) Judicial Review from

Date argued 2/20/80 Date submitted on briefs

Before Buttler, Presiding Judge, and Gillette and Roberts, Judges

Jan L. Perkins (Name) Appellant (Attorney for)

Walter L. Barrie/Al J. Laue (Name) Respondent (Attorney for)

Date affirmed from the bench and date filed

Date affirmed without opinion (ORS 19.180) and date filed March 3, 1980

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SUPREME COURT COURT of APPEALS

LOREN D. HICKS
State Court Administrator
378-6046

ADMINISTRATIVE OFFICE
SUPREME COURT BLDG.
SALEM, OREGON 97310

Telephone Area Code — 503

Re Cases on Appeal 378-6025
Legal Counsel 378-6022
Oreg. Reports Editor 378-2802

APPENDIX C
April 11, 1980

Jan L. Perkins
Oregon Legal Services
432 Main Street Suite 205
Klamath Falls, OR 97601

Re: State ex rel Juvenile Dept vs. Maffey
CA 14550 SC 26932

Dear Mr. Perkins:

Pursuant to Rule of Procedure 10.10 the Court of Appeals has considered the Petition for Review filed in the above case and has on April 9, 1980, decided not to rehear the matter or change its decision. Therefore, the Supreme Court will proceed to determine whether to grant review. No mandate can issue until the Supreme Court has completed its review of the petition.

Yours very truly,

Carol Justis/vr

Carol Justis
Records Administrator

CJ/vr
cc: Walter L. Barrie

SUPREME COURT COURT of APPEALS

LOREN D. HICKS
State Court Administrator
378-6046

ADMINISTRATIVE OFFICE
SUPREME COURT BLDG.
SALEM, OREGON 97310

Telephone Area Code — 503
Re Cases on Appeal 378-6033
Legal Counsel 378-6022
Oreg. Reports Editor 378-2802

APPENDIX D

May 14, 1980

RECEIVED MAY 16 1980

Jan L. Perkins
Oregon Legal Services Corp.
432 Main Street Suite 205
Klamath Falls, OR 97601

Re: State ex rel Juvenile Dept v. Maffey
CA 14550 SC 26932

Dear Mr. Perkins:

The Supreme Court on May 13, 1980, denied Appellant's Petition for Review in the above-entitled matter.

Very truly yours,

Marilyn Hartley
Supreme Court Calendar Clerk

MH/vr
cc: Walter L. Barrie

FILED
Aug. 8, 1980

APPENDIX E

STATE OF OREGON

COURT OF APPEALS

CHERYL MAFFEY,

Appellant,

v.

STATE OF OREGON ex rel JUVENILE DEPARTMENT OF KLAMATH COUNTY,

Appellee.

CA 14550

SC 26932

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Cheryl Maffey, the Appellant above-named, hereby appeals to the Supreme Court of the United States from the final judgment of the Court of Appeals of the State of Oregon, affirming the trial court order terminating Appellant's parental rights to her son, Noel Barefoot Wright. The Court of Appeals affirmed on March 3, 1980 and declined reconsideration on April 9, 1980. The Supreme Court of Oregon denied Appellant's Petition for Review on May 13, 1980.

This appeal is taken pursuant to 28 U.S.C. §1257(2).

Counsel for Appellant

638 MAIN STREET, ROOM 208
KLAMATH FALLS, OREGON 97601
PHONE: (503) 882-9986

(f) To make such reports and to supply such information to the court as the court may from time to time require.

(2) A person appointed guardian of the child by the court is guardian only and not a conservator of his estate, unless that person is appointed conservator of the child's estate in a protective proceeding as provided in ORS 126.003 to 126.413. [1959 c.432 §§24, 25; 1961 c.344 §105; 1973 c.823 §136]

419.522 [Repealed by 1959 c.432 §59]

419.523 Termination of parental rights; grounds. (1) The parental rights of the parents of a child within the jurisdiction of the juvenile court as provided in subsection (1) of ORS 419.476 may be terminated as provided in this section and ORS 419.525. The rights of one parent may be terminated without affecting the rights of the other parent.

(2) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents are unfit by reason of conduct or condition seriously detrimental to the child and integration of the child into the home of the parent or parents is improbable in the foreseeable future due to conduct or conditions not likely to change. In determining such conduct and conditions, the court shall consider but is not limited to the following:

(a) Emotional illness, mental illness or mental deficiency of the parent of such duration as to render it impossible to care for the child for extended periods of time.

(b) Conduct toward any child of an abusive, cruel or sexual nature.

(c) Addictive use of intoxicating liquors or controlled substances.

(d) Physical neglect of the child.

(e) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make the return of the child possible or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected.

(3) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents have failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child for one year prior to the filing of a petition. In determining such failure or neglect, the court shall consider but is not limited to one or more of the following:

(a) Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others.

(b) Failure to maintain regular visitation or other contact with the child which was designed and implemented in a plan to reunite the child with the parent.

(c) Failure to contact or communicate with the child or with the custodian of the child. In making this determination, the court may disregard incidental visitations, communications or contributions.

(4) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents have abandoned the child or the child was left under circumstances such that the identity of the parent or parents of the child was unknown and could not be ascertained, despite diligent searching, and the parent or parents have not come forward to claim the child within six months following the finding of the child. [1959 c.432 §26; 1963 c.152 §1; 1973 c.804 §1; 1979 c.744 §21]

419.524 [Repealed by 1959 c.432 §59]

419.525 Termination of parental rights; procedure. (1) An order pursuant to ORS 419.523 may be made only after service of summons, as provided in ORS 419.488 on the parent or parents. The summons shall contain a statement to the effect that the rights of the parent or parents are proposed to be terminated in the proceeding. The statement may be made in the summons originally issued in the proceeding or in separate summons issued at any subsequent stage of the proceeding.

(2) A hearing shall be held by the court on the question of terminating the rights of the parent or parents. No such hearing shall be held any earlier than 10 days after service or final publication of the summons. The facts on the basis of which the rights of the parents are terminated, unless admitted, must be established by a preponderance of competent evidence and a stenographic or other report authorized by ORS 8.340 shall be taken of the hearing.

(3) Unless there is an appeal from the order terminating the rights of the parent or parents, the order permanently terminates all rights of the parent or parents whose rights

are terminated and the parent or parents have no standing to appear as such in any legal proceeding concerning the child. [1959 c.432 §27]

419.526 [Repealed by 1959 c.432 §59]

419.527 Court's powers after termination of parental rights; consent to child's adoption. (1) After the entry of an order terminating the rights of the parent or parents of the child, the court may:

(a) Place the child in the legal custody and guardianship of a public or private institution or agency authorized to consent in loco parentis to the adoption of children. An order pursuant to this paragraph is a "permanent commitment" for the purposes of ORS 109.305, 109.310 to 109.330 and 109.345 to 109.390; or

(b) Make any order directing disposition of the child which it is empowered to make under ORS 419.472 to 419.597, 419.800 to 419.840 and subsection (2) of 419.990.

(2) If the rights of only one parent have been terminated, the authority to consent to the adoption of the child as provided in paragraph (a) of subsection (1) of this section is effective only with respect to the parent whose rights have been terminated. [1959 c.432 §28]

419.528 [Repealed by 1959 c.432 §59]

419.529 Court's power to modify or set aside its orders; hearing. (1) Except as provided in this section, the court may modify or set aside any order made by it upon such notice and with such hearing as the court may direct.

(2) Except as provided in subsection (3) of this section, notice and a hearing as provided in ORS 419.486 to 419.505 shall be granted in any case where the effect of modifying or setting aside the order will or may be to deprive a parent of the legal custody of the child, to place the child in an institution or agency or to transfer the child from one institution or agency to another. However, the provisions of this subsection shall not apply to a parent whose rights have been terminated under ORS 419.523 and 419.525 or whose child has been permanently committed by order of the court unless an appeal from such order is pending.

(3) Notice and a hearing as provided in subsection (2) of this section are not required where the effect of modifying or setting aside the order will be to transfer the child from one foster home to another.

(4) No order pursuant to paragraph (a) of subsection (1) of ORS 419.527 may be set aside or modified during the pendency of a proceeding for the adoption of the child, nor after a petition for adoption has been granted. [1959 c.432 §29; 1963 c.496 §2]

419.530 [Renumbered 419.308 and then 418.570]

419.531 Termination of court's wardship over child. The court's wardship over a child brought before it continues until whichever of the following occurs first:

(1) The court dismisses the petition concerning the child or remands the case to the appropriate court handling criminal actions, or to municipal court. If the court has wardship of a child based upon a prior petition, remanding the child to the court handling criminal actions, or to municipal court in connection with a subsequent violation of a law or ordinance relating to the use or operation of a motor vehicle does not terminate the wardship, unless the court so orders.

(2) The court transfers jurisdiction over the child as provided in ORS 419.479, 419.547 or 419.549.

(3) The court by order terminates its wardship.

(4) A decree of adoption of the child is entered by a court of competent jurisdiction.

(5) The child becomes 21 years of age. [1959 c.432 §30; 1979 c.275 §3]

419.532 [Repealed by 1959 c.432 §59]

419.533 Remanding of child to another court. (1) A child may be remanded to a circuit, district, justice or municipal court of competent jurisdiction for disposition as an adult if:

(a) The child is at the time of the remand 16 years of age or older;

(b) The child committed or is alleged to have committed a criminal offense or a violation of a municipal ordinance; and

(c) The juvenile court determines that retaining jurisdiction will not serve the best interests of the child because the child is not amenable to rehabilitation in facilities or programs available to the court.

(2) The juvenile court shall make a specific, detailed, written finding of fact to support any determination under paragraph (c) of subsection (1) of this section.

(3) The juvenile court may enter an order directing that all cases involving violation of

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80-5227
No.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1980

CHERYL MAFFEY

v.

STATE OF OREGON ex rel JUVENILE
DEPARTMENT OF KLAMATH COUNTY

On Appeal From the Court of Appeals of Oregon

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

JAN PERKINS
Oregon Legal Services Corporation
Regional Office
432 Main , Suite 205
Klamath Falls, Oregon 97601
503-884-7709

Counsel for Appellant

The Appellant, Cheryl Maffey, asks leave to file the attached Jurisdictional Statement without prepayment of costs and to proceed in forma pauperis pursuant to Rule 46. Leave to proceed in forma pauperis was not sought in any of the lower courts.

The appellant's affidavit in support of this motion is attached hereto.

by Jan Perkins
Counsel for Appellant

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SUPREME COURT, U.S.

80-5227

No.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, ;980

CHERYL MAFFEY

v.

STATE OF OREGON ex rel JUVENILE
DEPARTMENT OF KLAMATH COUNTY

On Appeal From the Court of Appeals of Oregon

AFFIDAVIT

I, Cheryl Maffey, being first duly sworn, depose and say I am the appellant, in the above entitled case; that in support of my motion to proceed on appeal without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress;

I futher swear that the responses which I have made to the questions and instructions below relating to my ability to pay the cost of prosecuting the appeal are true.

1. Are you presently employed?

Ans. No. I was last employed April, 1979, and I received $600.00 per month.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

Ans. No.

3. Do you own any cash or checking or savings account?

Ans. No.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

Ans. No.

5. List the persons who are dependent upon you for support and state your relationship to those persons.

Ans. Sonn Maffey, son; Michelle Danya Kennedy, daughter.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Subscribed and sworn to before me this day of August, 1980.

Cheryl Maffey
Cheryl Maffey

Commission expires: February 23, 1983

Crystal L. Saunders
Notary Public for Oregon